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OUTLINES OF LECTURES ON TAXATION*

LECTURE I

ASSIGNMENT OF INCOME

- I. Constitutional prohibition against taxing A on income belonging to B.
 - A. Constitutional basis—U. S. Const., due process clause of Amend. 5.
 - B. Decisions illustrating when, and when not, such result occurs.

Hoeper v. Wis. Tax Comm., 284 U. S. 206, 52 S. Ct. 120 (state law).
Corliss v. Bowers, 281 U. S. 376, 50 S. Ct. 336.
Reinecke v. Smith, 289 U. S. 172, 53 S. Ct. 570.
Burnet v. Wells, 289 U. S. 670, 53 S. Ct. 761.
- II. Income from property jointly held.
 - A. Person entitled is he who is entitled to it under state law.

Helvering v. Miller and Miller, 75 F. (2d) 474.
C. of I. R. v. Hart, 76 F. (2d) 864.
- III. Treatment of community income.
 - A. General rule.

U. S. v. Robbins, 269 U. S. 315, 46 S. Ct. 148.
Poe v. Sanborn, 282, U. S. 101, 51 S. Ct. 58.
 - B. Where community arises under an optional statute.

C. of I. R. v. Harmon, 323 U. S. 44, 65 S. Ct. 103.
- IV. Assignment of past or future income.
 - A. Of future earnings.

Lucas v. Earl, 281 U. S. 111, 50 S. Ct. 241.
Jones v. Page, 102 F. (2d) 144.
C. of I. R. v. Gianninni, 129 F. (2d) 638.
 - B. Of earnings for past services to which assignor has a present contract right.

Helvering v. Eubank, 311 U. S. 122, 61 S. Ct. 149.
Lewis v. Rothensies, 61 F. Supp. 862.
 - C. Of future income from property.
 1. Dividends.

Hyman v. Nunan, 143 F. (2d) 425.
 2. Interest.

Helvering v. Horst, 311 U. S. 112, 61 S. Ct. 144.
 3. Rent.

U. S. v. Joliet and C. R. Co., 315 U. S. 44, 62 S. Ct. 442.
 - D. Assignment of income by transfer of corpus producing the income.

Nelson v. Ferguson, 56 F. (2d) 121.
C. of I. R. v. Mesta, 123 F. (2d) 986.
Lum v. C. of I. R., 147 F. (2d) 356.
Sunnen v. C. of I. R., 161 F. (2d) 171.
 - E. Assignment of life beneficiary's right to future income.

Blair v. C. of I. R., 300 U. S. 5, 57 S. Ct. 330.
Harrison v. Schaffner, 312 U. S. 579, 61 S. Ct. 759.

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V. Partnership as device for assigning income.

A. Assignment by partner of right to future partnership income.

Burnet v. Leininger, 285 U. S. 136, 52 S. Ct. 345.

B. Family partnerships.

Tinkhoff v. C. of I. R., 120 Fed. (2d) 564.

Doll v. C. of I. R., 149 Fed. (2d) 239.

Argo v. C. of I. R., 150 Fed. (2d) 67.

Supornick v. C. of I. R., 150 Fed. (2d) 110.

Grant v. C. of I. R., 150 Fed. (2d) 915.

Bradshaw v. C. of I. R., 150 Fed. (2d) 918.

Appel v. Smith, 63 F. Supp. 173.

C. of I. R. v. Tower, 327 U. S. 280, 66 S. Ct. 532.

Lusthaus v. C. of I. R., 327 U. S. 293, 66 S. Ct. 539.

Singletary v. C. of I. R., 155 Fed. (2d) 207.

Mauldin v. C. of I. R., 155 Fed. (2d) 666.

Thorez v. C. of I. R., 155 Fed. (2d) 791.

Durwood v. C. of I. R., 159 F. (2d) 400.

Ford v. Maloney, 68 F. Supp. 1004.

Helvering v. Fuller, 310 U. S. 69, 60 S. Ct. 784.

Helvering v. Fitch, 309 U. S. 149, 60 S. Ct. 427.

Helvering v. Leonard, 310 U. S. 80, 60 S. Ct. 780.

Pearce v. C. of I. R., 315 U. S. 543, 62 S. Ct. 754.

Stern v. C. of I. R., 137 Fed. (2d) 43.

C. After December 31, 1941 sec. I.R.C. Sec. 22 (k); Reg. 111, Sec. 29.22 (k)-1. Also I.R.C. Sec. 171; Reg. 111, Secs. 29.171-1, 2.

VI. Alimony trusts.

A. Prior to January 1, 1942.

Douglas v. Willcuts, 296 U. S. 1, 56 S. Ct. 59.

VII. Application of Section 22 (a).

A. Term trusts.

Helvering v. Clifford, 309 U. S. 331, 60 S. Ct. 554.

Helvering v. Hormel, 111 Fed. (2d) 1; see same case in 312 U. S. 552, 61 S. Ct. 719.

Penn v. C. of I. R., 109 Fed. (2d) 954.

C. of I. R. v. Branch, 114 Fed. (2d) 985.

Helvering v. Achelis, 112 Fed. (2d) 929.

C. of I. R. v. Barbour, 122 Fed. (2d) 165.

C. of I. R. v. Wooley, 122 Fed. (2d) 167.

C. of I. R. v. Jonas, 122 Fed. (2d) 169.

C. of I. R. v. Elias, 122 Fed. (2d) 171.

C. of I. R. v. Chamberlain, 121 Fed. (2d) 765.

Jones v. Norris, 122 Fed. (2d) 6.

C. of I. R. v. Bateman, 127 Fed. (2d) 266.

C. of I. R. v. Lamont, 127 Fed. (2d) 875.

C. of I. R. v. Wilson, 125 Fed. (2d) 307.

C. of I. R. v. Armour, 125 Fed. (2d) 467.

Phipps v. C. of I. R., 137 Fed. (2d) 141.

George v. C. of I. R., 143 Fed. (2d) 837.

Cent. Nat. Bk. of Cleveland v. C. of I. R., 141 Fed. (2d) 352.

Armstrong v. C. of I. R., 143 Fed. (2d) 700

Hawkins v. C. of I. R., 152 Fed. (2d) 221.

Hash v. C. of I. R., 152 Fed. (2d) 722.

Gayland v. C. of I. R., 153 Fed. (2d) 408.
Kohnstamm v. Fedrick, 153 Fed. (2d) 506.
Cushman v. C. of I. R., 153 Fed. (2d) 510.
Sinopoulo v. Jones, 154 Fed. (2d) 648.
Littell v. C. of I. R., 154 Fed. (2d) 922.
U. S. v. Morss, 159 Fed. (2d) 142.

- B. Other applications of Sec. 22 (a) to trusts.
C. of I. R. v. Buck, 120 Fed. (2d) 775.
Whiteley v. C. of I. R., 120 Fed. (2d) 782.
Richardson v. C. of I. R., 121 Fed. (2d) 1.
Jergens v. C. of I. R., 136 Fed. (2d) 497.
U. S. v. Pierce, 137 Fed. (2d) 428.
Mahaffey v. Helvering, 140 Fed. (2d) 879.
C of I. R. v. Katz, 139 Fed. (2d) 107.
Emery v. C. of I. R., 156 Fed. (2d) 728.
- C. Other trust transfers for benefit of grantor.
Schweitzer v. C. of I. R., 75 Fed. (2d) 702, Reversed, 56 S. Ct. 304.
C. of I. R. v. Grosvenor, 85 Fed. (2d) 2.
C. of I. R. v. Yeiser, 75 Fed. (2d) 956.
Hill v. C. of I. R., 88 Fed. (2d) 941.
Blumenthal v. C. of I. R., 76 Fed. (2d) 507.
Mains v. Reynolds, 120 Fed. (2d) 857.
Helvering v. Stuart, 317 U. S. 154, 63 S. Ct. 140.

VIII. Transfer of income by use of trust device in cases for which statutes make express provision. See I.R.C., Secs. 161-164; 166; 167; 168; 170. Reg. 111, Secs. 29.161-1; 29.162-1; 29.163-1; 29.166-1; 29.167-1; 29.170-1; 29.172-1.

- A. When trust income chargeable to trustee.
Graham v. Miller, 46 Fed Supp. 900, aff'd 137 Fed. (2d) 507.
C. of I. R. v. Clark, 134 Fed. (2d) 159.
F. H. Mason Trust v. C. of I. R., 136 Fed. (2d) 335.
- B. When trust income chargeable to beneficiaries. I.R.C., Secs. 161, 162, as amended by 1943 R. A., Sec. 133 (a); Reg. 111, Secs. 29.161-1, 29.162-1, 2.
Plimpton v. C. of I. R., 135 Fed. (2d) 482.
- C. When trust income chargeable to grantor.
 - 1. Revocable trusts.
 I.R.C., Sec. 166; Reg. 111, Sec. 29.166-1.
Corliss v. Bowers, 281 U. S. 376, 50 S. Ct. 336.
Reinecke v. Smith, 289 U. S. 172, 53 S. Ct. 570.
Bowler v. Helvering, 80 Fed. (2d) 103.
Jackson v. C. of I. R., 64 Fed. (2d) 359.
Knapp v. Hoey, 104 Fed. (2d) 99.
Corning v. C. of I. R., 104 Fed. (2d) 329.
Helvering v. Wood, 309 U. S. 344, 60 S. Ct. 551.
Fulham v. C. of I. R., 110 Fed. (2d) 916.
Cox v. C. of I. R., 110 Fed. (2d) 934.
Morton v. C. of I. R., 109 Fed. (2d) 47.
Lewis v. White, 56 Fed. (2d) 390.
Smith v. C. of I. R., 59 Fed. (2d) 56.
Chandler v. C. of I. R., 119 Fed. (2d) 623.
C. of I. R. v. Betts, 123 Fed. (2d) 534.
Cochran v. U. S., 62 F. Supp. 872.

2. Grantor retaining control of benefits. I.R.C., Sec. 167 Reg. 11, Sec. 29.167-1.
U. S. v. Stroop, 109 Fed. (2d) 891.
Kent v. Rothensies, 35 F. Supp. 291.
C. of I. R. v. Morton, 108 Fed. (2d) 1005.
Loeb v. C. of I. R., 113 Fed. (2d) 664.
Irish v. C. of I. R., 129 Fed. (2d) 468.
Phipps v. Helvering, 124 Fed. (2d) 288.
C. of I. R. v. Willson, 132 Fed. (2d) 255.
Ewald v. C. of I. R., 141 Fed. (2d) 750.
Helvering v. Stuart, 317 U. S. 154, 63 S. Ct. 140.
 See in connection herewith I.R.C., Sec. 167 (c).
 3. Insurance trusts. I.R.C., Sec. 167, Reg. 111, Sec. 29.167-1.
Burnet v. Wells, 289 U. S. 670, 53 S. Ct. 761.
Dupont v. C. of I. R., 289 U. S. 685, 53 S. Ct. 766.
Heffelfinger v. C. of I. R., 87 Fed. (2d) 991.
- D. Trusts taxable on income from trust res. I.R.C., Sec. 161; Reg. 111, Sec. 29.161-1.
1. Trusts for accumulation.
Hart v. C. of I. R., 54 Fed. (2d) 848.
C. of I. R. v. Dean, 102 Fed. (2d) 699.
Kent v. Rothensies, 25 F. Supp. 291.
 2. Trusts whose income is currently distributable
 - a. When income deemed to be so distributable.
C. of I. R. v. Plant, 76 Fed. (2d) 8.
C. of I. R. v. Stearns, 65 Fed. (2) 371.
Ordway v. Willcuts, 12 Fed. (2d) 105, aff'd. 19 Fed. (2d) 917.
De Brabant v. C. of I. R., 90 Fed. (2d) 433.
C. of I. R. v. Dean, 102 Fed. (2d) 699.
 - b. What deemed distributable income.
Freuler v. Helvering, 291 U. S. 35, 54 S. Ct. 308.
Helvering v. Butterworth, 290 U. S. 365, 54 S. Ct. 221.
 3. Trusts whose income may be distributed or accumulated at trustee's discretion.
City Nat. Bk. and Tr. Co. v. Bulkeley, 109 Fed. (2d) 191.
- E. Special deductions permitted to be taken by trusts. I.R.C., Sec. 162; Reg. 111, Sec. 29.162 1, 2.
1. Contributions.
Slocum v. Powers, 15 Fed. (2d) 400, aff'd. 20 Fed. (2d) 350.
Hartford-Conn. Tr. Co. v. Eaton, 29 Fed. (2d) 840.
Hartford-Conn. Tr. Co. v. Eaton, 41 Fed. (2d) 69.
Old Colony Tr. Co. v. C. of I. R., 301 U. S. 379.57 S. Ct. 813.
 2. Currently distributable income and income collected by infant's guardian.
Spreckels v. C. of I. R., 101 Fed. (2d) 721.
Roebeling v. C. of I. R., 78 Fed. (2d) 444.

3. Income paid or credited to cestuis under discretionary trust, or to legatees or heirs.
C. of I. R. v. Stearns, 65 Fed. (2d) 371.
Weigell v. C. of I. R., 96 Fed. (2d) 387.
County Nat. Bk. & Tr. Co. v. Helvering, 122 Fed. (2d) 29.
 For provision granting relief in case of excess deductions of estates and trusts, see I. R. C., Sec. 162(d) (4).
 4. Optional standard deduction not allowed to estates and trusts.
I. R. C., Sec. 162(f).
 5. Non-deductibility of loss of value of terminable interests due to lapse of time.
I. R. C., Sec. 24(d); Reg. 111, Sec. 29.24-8.
- F. Problems of variations between statutory income and income under trust instrument.
1. Capital losses — whether chargeable to trustee or beneficiary.
Baltzell v. Mitchell, 3 Fed. (2d) 428.
Anderson v. Wilson, 289 U. S. 20, 53 S. Ct. 417.
 2. To whom are items chargeable that state law treats as accretions to corpus.
Burdick v. C. of I. R., 76 Fed. (2d) 672.
Irish v. C. of I. R., 129 Fed. (2d) 468.
 3. By whom may depreciation and depletion deductions be taken.
I. R. C., Sec. 23(1),(m).
 (1) Cases under Acts making no express provision therefor.
Helvering v. Falk, 291 U. S. 183, 54 S. Ct. 353.
Reynolds v. Cooper, 291 U. S. 192, S. Ct. 356.
 See also *Freuler v. Helvering*, 291 U. S. 35, 54 S. Ct. 308.
 4. Other deductible items.
Caldwell v. U. S., 102 Fed. (2d) 607.
Sitting v. C. of I. R., 80 Fed. (2d) 939.
 5. Non-deductibility by life tenant of items deductible under the act but not deductible in computing his income under applicable state or foreign law, except in case of depreciation and depletion.
I. R. C., Sec. 24(d); Reg. 111, Sec. 29.24-8.
- G. Credits against net income of estate, trust, legatees, heirs, and beneficiaries.
I. R. C., Sec. 163; Reg. 111, Sec. 29.163-1.
- H. Credit against taxes.
I. R. C., Sec. 168.
- I. Treatment where taxable years of estate, etc., and beneficiaries are different.
I. R. C., Sec. 164.
 - J. Allocation of estate and trust income.
I. R. C., Sec. 162(d), Reg. 111, Sec. 29.162-2.

- IX. Assignment incident to death of taxpayer.
 - A. Income of decedents.
See I. R. C., Sec. 126; Reg. 111, Secs. 29.126-1 to 29.126-4.
- X. Allocation of income and deductions among related trades or businesses.
 - I. R. C., Sec. 45; Reg. 111, Sec. 29.45-1.
Asiatic Pet Co. v. C. of I. R., 79 F. (2d) 234.
Epsen Lithographers, Inc. v. O'Malley, 67 F. Supp. 181.
- XI. Inter-family losses.
 - I. R. C., Sec. 24; Reg. 111, Sec. 29.24-6.
C. of I. R. v. Ickleheimer, 132 F. (2d) 660.
Fawcett v. C. of I. R., 149 F. (2d) 433.
McWilliams v. C. of I. R., —U. S.—, 67 S. Ct. 1477.
C. of I. R. v. Cohn, 158 F. (2d) 32.

LECTURE II

CORPORATION OR PARTNERSHIP

- I. Purpose and limits of discussion.
 - A. Comparative tax burden of the two forms of conducting business.
 - B. Comparative income position of entrepreneurs after they have paid taxes imposed on them with respect to the receipt of the income from such business.
 - C. Tax problems incident to shifting from one form to the other.
 - 1. From partnership to corporation.
 - 2. From corporation to partnership.
 - D. Tax problems incident to liquidation of the enterprise.
 - 1. Liquidation of partnership.
 - 2. Liquidation of the corporation.
 - E. Tax problems in formation of partnership.
 - F. Relative advantages of the two forms where the entrepreneurs have income from sources other than such business.
- II. Assumptions to be made in analyzing problem.
 - A. That the business is the same whether conducted as a corporation or a partnership.
 - B. That its capital plant, working capital requirements, and borrowings are the same regardless of the business form.
 - C. That its annual actual gross earnings are the same regardless of form.
 - D. That its annual actual production costs of producing such earnings are the same.
 - 1. Except for taxes and other public charges whose amount varies with the form of conducting business, and
 - 2. Except for other costs or outlays whose amount depends on form of organization.
 - E. That its annual actual non-operating income is the same, and is derived from the same sources, regardless of form.

- F. That its annual actual non-operating costs and outgo are the same regardless of form,
 - 1. Except as indicated in D-1 and D-2.
- III. Taxes to be taken into account.
 - A. Federal taxes based on income.
 - B. State taxes based on income.
 - 1. These will not be given detailed consideration in this discussion.
- IV. Relevant federal tax provisions.
 - A. Taxes imposed on corporate income.
 - 1. I. R. C., Secs. 13, 14, 15; Reg. 111, Secs. 29.13-1 through 29.15-1.
I. R. C., Sec. 102; Reg. 111, Secs. 29.102-1 through 29.102-4.
 - B. Tax treatment of partnerships.
 - 1. Definition of partnership.
I. R. C., Sec. 3797; Reg. 111, Sec. 29.3797-4, 5, 6.
 - 2. Not taxable as entities.
I. R. C., Sec. 181, Reg. 111, Sec. 29.181-1.
 - 3. Computation of partnership income.
I. R. C., Sec. 183; Reg. 111, Sec. 29.183-1.
I. R. C., Sec. 113 (a) (13); Reg. 111, Sec. 29.113 (a) (13)-1, 2.
 - C. Treatment of corporate distributions.
I. R. C., Secs. 115; Reg. 111, Secs. 29.115-1 to 29.115-14.
 - D. Treatment of partnership income received by partners.
I. R. C., Sec. 182; Reg. 111, Sec. 29.182-1.
I. R. C., Sec. 184; Reg. 111, Sec. 29.184-1.
I. R. C., Sec. 188.
 - E. Variations in definition of gross income of corporations and partnerships.
 - 1. Income from advantageous discharge of indebtedness.
I. R. C., Sec. 22 (b) (9); Reg. 111, Sec. 29.22 (b) (9)-1, 2.
 - 2. Amortizable bond premiums.
I. R. C., Sec. 125; Reg. 111, Sec. 29.125-1 to 29.125-9.
 - 3. Capital gains.
I. R. C., Sec. 117; Reg. 111, Sec. 29.117-1 to 29.117-7.
 - F. Variations in definition of deductions of corporations and partnerships.
 - 1. With respect to compensation of partners.
 - 2. Taxes.
I. R. C., Sec. 23 (c); Reg. 111, Sec. 29.23 (c)-1, 2, 2.
Social security taxes of shareholder-officer.
 - 3. Charitable contributions.
I. R. C., Secs. 23 (a) (2), and 23 (q); Reg. 111, Secs. 29.23 (a)-1, 3, and 29.23 (q)-1.
 - 4. Net operating losses.
I. R. C., Secs. 122 and 189; Reg. 111, Secs. 29.122-1 to 29.122-5, and 29.189-1.

- 5. Variations in treatment of capital losses.
 - I. R. C., Sec. 117 (a) - (e); Reg. 111, Sec. 29.117-1 to 29.117-4.
 - I. R. C., Sec. 189; Reg. 111, Sec. 29.189-1.
- G. Variations in definition of credits against net income of corporations and partnerships.
 - 1. Corporation credits.
 - I. R. C., Sec. 26; Reg. 111, Sec. 29.26-1.
 - 2. Individual credits.
 - I. R. C., Sec. 25; Reg. 111, Sec. 29.25-1 to 29.25-7.
 - 3. Credits of partners.
 - I. R. C., Sec. 184; Reg. 111, Sec. 29.184-1.
- H. Shifting from one form to another.
 - I. R. C., Sec. 112 (b) (5); 112 (c); 112 (d); 112 (e); 112 (g); 112 (h); and 112 (k). Reg. 111, Sec. 29.112 (b) (5)-1, 2, 3; Sec. 29.112 (c)-1; Sec. 29.112 (e)-1; Sec. 29.112 (g)-4; Sec. 29.112 (k)-1.
- V. Discussion of gross income variations.
 - A. Income from advantageous discharge of indebtedness.
 - 1. Immediate effect.
 - 2. Countervailing considerations.
 - B. Amortizable bond premiums.
 - 1. Immediate effect.
 - 2. Countervailing considerations.
 - C. Capital gains.
- VI. Discussion of variations of deductions.
 - A. Compensation of partners.
 - 1. Social security taxes.
 - B. Taxes.
 - C. Charitable contributions.
 - D. Net operating losses.
 - 1. Immediate effects.
 - 2. Countervailing considerations.
 - E. Capital loss.
 - 1. Immediate effect.
 - 2. Countervailing considerations.
- VII. Discussion of variations in credits against net income.
- VIII. Problems concerning ultimate receipt of net income from the business.
 - A. Receipt in form of dividends.
 - 1. Disadvantages.
 - 2. Timing factor in distribution.
 - 3. Section 102 problems.
 - B. Receipt in form of distributive share of partnership net income.
 - 1. Disadvantages.
 - 2. Advantages.

- IX. Working out a concrete example to illustrate tax consequences of corporate and partnership form of organization.
- X. Shifting from partnership to corporate form.
 - A. Methods available.
 - B. Factors to be considered.
 - 1. Involving the business itself.
 - 2. Involving owners' interest therein.
 - C. Type of corporate structure to be adopted.
 - D. Other considerations.
- XI. Shifting from corporation to partnership.
 - A. The problem of family partnership.
 - B. The problem of "associations."
 - C. Methods available.
- XII. Miscellaneous consideration.
 - A. Non-tax considerations.
 - B. Tax considerations.

LECTURE III

ESTATE PLANNING

- I. Objectives of estate planning.
 - A. To insure maximum possible amount for recipients of one's benefactions.
 - B. To approximate as nearly as possible the distribution desired.
- II. Methods of distribution.
 - A. By will.
 - B. By intervivos transfers.
 - C. By use of powers of appointment.
 - D. By creation of joint interests.
 - E. By use of insurance.
- III. Problems in connection with administration of decedent's estate.
 - A. Provision of funds to pay decedent's debts, funeral expenses, expenses of administration, taxes, including inheritance and estate taxes.
 - 1. Granting executor power to sell estate assets.
 - a. Problems arising when executor exercises power.
 - (1) Principles for selecting assets for sale.
 - In re Bowlin's Estate, 189 Minn. 196, 248 N. W. 741.
 - In re Ferguson's Estate, 113 Wash. 598, 194 P. 771.
 - b. Insurance payable to decedent's estate.
 - B. Provision for family during administration.
 - Same subheadings as under A, supra.
 - C. Payment of money legacies.
 - Kenan v. C. of I. R.*, 114 F. (2d) 217.
 - D. Establishing a testamentary trust.
 - Burchenal v. C. of I. R.*, 150 F. (2d) 482.

IV. Dispositions by will.

A. State inheritance taxes.

1. Where testator has power of appointment over property.
 - a. Shall he exercise it or not.
State v. Brooks, 181 Minn. 262, 232 N. W. 331.
People v. Cavenue, 368 Ill. 399, 14 N. E. (2d) 232.
In re Vanderbilt's Estate, 309 U. S. 530, 60 S. Ct. 635.
In re Robinson's Estate, 192 Minn. 39, 255 N. W. 468.
In re Morgan's Will, 227 Wis. 288, 277 N. W. 650.
2. Where testator still has property previously subjected to state inheritance tax.
3. Payment or forgiveness of debt by will.
Matter of Gould, 153 N. Y. 423, 51 N. E. 287.
In re Koeffler's Will, 218 Wis. 560, 260 N. W. 638.
In re Oppenheimer's Estate, 75 Mont. 186, 243 P. 589.
State ex rel. Tarsh v. Probate Ct., 168 Minn. 508, 210 N. W. 389.
4. Bequest to pay items deductible in computing inheritance taxes.
In re Cohen's Estate, 270 N. Y. 383, 1 N. E. (2d) 474.
Bk. of Montclair v. McCutcheon, 110 N. J. Eq. 539, 160 A. 631.
5. Creation of life estates with power in life tenant to invade principal.
 - a. Where remainder is taxable.
People v. Freese, 267 Ill. 164, 107 N. E. 857.
 - b. Where remainder given to charity, etc.
6. Bequests of stated sum plus tax.
In re Bowlin's Estate, 189 Minn. 196, 248 N. W. 741.
Re LeValley's Estate, 191 Wis. 356, 210 N. W. 941.
7. Charitable, etc., bequests and devises.
 - a. The problem of foreign charities, etc.
8. Provision of testamentary trusts.
 - a. Selection of trustee as factor in subsequent taxation of trust res.
Greenough v. Newport, U. S., 67 S. Ct. 1400.

B. Federal Estate Tax.

1. Where testator has power of appointment over property.
 I.R.C., Sec. 811 (f) ; Reg. 105, Sec. 81.24.
2. Where he still has property previously subjected to the Estate Tax.
 I.R.C., Sec. 812 (c) ; Reg. 105, Secs. 81.41-81.43, 81.53.
Bahr v. C. of I. R., 119 F. (2d) 371.
C. of I. R. v. Garland, 136 F. (2d) 82.
Cent. Hanover Bk. & Tr. Co. v. C. of I. R., 159 F. (2d) 167.

3. Charitable, etc., bequests.

Ithaca Trust Co. v. U. S., 279 U. S. 151, 49 S. Ct. 291.

Humes v. U. S., 276 U. S. 487, 48 S. Ct. 347.

U. S. v. Prov. Tr. Co., 291 U. S. 272, 54 S. Ct. 389.

Harrison v. Northern Tr. Co. 317 U. S. 476, 63 S. Ct. 361.

Merchants Nat. Bk. v. C. of I. R., 320 U. S. 256, 64 S. Ct. 103.

4. Problem of form of bequest as it affects subsequent taxation.

V. Intervivos transfers—Gifts in contemplation of death.

A. State inheritance taxes.

State v. Thompson, 154 Wis. 320.

Schlesinger v. Wisconsin, 270 U. S. 230, 46 S. Ct. 260.

B. Federal Estate tax.

I. R. C., Sec. 811 (c) ; Reg. 105, Secs. 81.15, 81.16.

U. S. v. Wells, 283 U. S. 102, 51 S. Ct. 446.

Colorado Nat. Bk. v. C. of I. R., 305 U. S. 23, 59 S. Ct. 48.

City Bk. Farmers Tr. Co. v. McGowan, 323 U. S. 594, 65 S. Ct. 496.

Allen v. Trust Co. of Ga., 326 U. S. 630, 66 S. Ct. 389.

Heimer v. Donnan, 285 U. S. 312, 52 S. Ct. 358.

C. Liability of such transfer to gift taxes.

1. Jurisdictional problem with respect to state gift taxes.

Van Dyke v. Wis. Tax Comm., 235 Wis. 128, 292 N. W. 313.

In re Ingram, 236 Wis. 449, 295 N. W. 749.

2. Such gifts would be included in taxable gifts under state gift taxes and the Federal Gift Tax.

3. Credits against tax allowable if property later included in donor's gross estate under Federal Estate Tax.

J.R.C., Secs. 813, 936; Reg. 105, Secs. 81.8, 81.9.

VI. Intervivos transfers—transfers intended to take effect at or after transferor's death.

A. State inheritance taxes.

Rising's Estate v. State, 186 Minn. 56, 242 N. W. 459.

In re Estate of Schuh, 66 Mont. 50, 212 P. 516.

State v. Welch's Estate, 235 Mich. 555, 209 N. W. 930.

Topping v. McLaughlin, 125 Conn. 456, 6A. (2d) 343.

Matter of Schmidlapp, 236 N. Y. 278, 140 N. E. 697.

People v. McCormick, 327 Ill. 547, 158 N. E. 861.

Hackett v. Bankers Tr. Co., 122 Conn. 107, 187 A. 653.

In re Marshall's Estate, 178 Minn. 233, 228 N. W. 920.

In re Madison's Estate,Cal....., 159 P. (2d) 630.

Inheritance Tax Div. v. Chamberlain's Estate, 21 Wash. (2d) 790, 153 P. (2d) 305.

In re Jones' Estate, 350 Pa. St. 120, 38 A. (2d) 30.

B. Federal Estate Tax.

I. R. C., Sec. 811 (c) ; Reg. 105, Secs. 81.18, 81.19.

Klein v. U. S., 283 U. S. 231, 51 S. Ct. 398.

Helvering v. Hallock, 309 U. S. 106, 60 S. Ct. 444.
Fidelity-Phila. Tr. Co. v. Rothensies, 324 U. S. 108, 65 S. Ct. 508.
Goldstone v. U. S., 325 U. S. 687, 65 S. Ct. 1323.
C. of I. R. v. Singer's Estate, 161 F. (2d) 15.
Reinecke v. Northern Tr. Co., 278 U. S. 339, 49 S. Ct. 123.

VII. Intervivos transfers—transfers under express provision re reserving control over income.

I. R. C., Sec. 811 (c) ; Reg. 105, Secs. 81.18, 81.19.
May v. Heiner, 281 U. S. 238, 50 S. Ct. 286.
Helvering v. Bullard, 303 U. S. 297, 58 S. Ct. 565.
Hassett v. Welch, 303 U. S. 303, 58 S. Ct. 559.
 This subdivision applies to Federal Estate Tax only.

VIII. Intervivos transfers—Revocable transfers under I. R. C., Sec. 811 (d).

See also Reg. 105, Secs. 81.20, 81.21.
 This subdivision applies to Federal Estate Tax only.
Porter v. C. of I. R., 288 U. S. 436, 53 S. Ct. 451.
Helvering v. City Bk. Farmer's Tr. Co., 296 U. S. 85, 56 S. Ct. 70.
Helvering v. Helmholz, 296 U. S. 93, 56 S. Ct. 68.
White v. Poor, 296 U. S. 98, 56 S. Ct. 66.
C. of I. R. v. Holmes, 326 U. S. 480, 66 S. Ct. 257.
Hurd v. C. of I. R., 160 F. (2d) 610.
Jennings v. Smith, 161 F. (2d) 74.
Lehman v. C. of I. R., 109 F. (2d) 99.

IX. Gift taxes in relation to transfers includible under subdivisions VI, VII, and VIII.

A. State gift tax statutes include many of these among taxable gifts.

B. Federal Gift Tax.

Sanford's Estate v. C. of I. R., 308 U. S. 39, 60 St. Ct. 51.
Rasquin v. Humphreys, 308 U. S. 54, 60 S. Ct. 60.
Robinette v. Helvering, 318 U. S. 184, 63 S. Ct. 540.
Smith v. Shaughnessy, 318 U. S. 176, 63 S. Ct. 545.
Helvering v. Hutchings, 312 U. S. 393, 61 S. Ct. 653.
Fondren v. C. of I. R., 324 U. S. 18, 65 S. Ct. 499.

X. Other problems incident to transfers includible under subdivisions IV-VIII.

A. Jurisdictional problem.

1. State inheritance taxes.

Frick v. Penn., 268 U. S. 473, 45 S. Ct. 603.
Pearson v. McGraw, 308 U. S. 313, 60 S. Ct. 211.
City Bk. Farmers Tr. Co. v. Schnader, 293 U. S. 112, 55 S. Ct. 29.
Bullen v. Wisconsin, 240 U. S. 625, 36 S. Ct. 473.
Blodgett v. Silberman, 277 U. S. 1, 48 S. Ct. 410.
Graves v. Elliott, 307 U. S. 383, 59 S. Ct. 913.
Blackstone v. Miller, 188 U. S. 189, 23 S. Ct. 277.
F. L. & Tr. Co. v. Minn., 280 U. S. 204, 50 S. Ct. 98.
Baldwin v. Mo., 281 U. S. 586, 50 S. Ct. 436.
Beidler v. S. C. Tax Comm., 282 U. S. 1, 51 S. Ct. 54.
Curry v. McCanless, 307 U. S. 357, 59 S. Ct. 900.

Pearson v. McGraw, 308 U. S. 313, 60 S. Ct. 211.
Cent. Hanover Bk. & Tr. Co. v. Kelly, 319 U. S. 94,
 63 S. Ct. 945.
State Tax Comm. v. Aldrich, 316 U. S. 174, 62 S. Ct.
 1008.
Graves v. Schmidlapp, 315 U. S. 657, 62 S. Ct. 870.
Texas v. Florida, 306 U. S. 398, 59 S. Ct. 563.
Mass. v. Missouri, 308 U. S. 1, 60 S. Ct. 39.

2. Federal Estate Tax.

Burnet v. Brooks, 288 U. S. 378, 53 S. Ct. 457.
 See also I. R. C., Secs. 862, 863, and Reg. 105, Sec.
 81.50.

B. The problem of aggregation.

Estate of Stephenson, 171 Wis. 452, 177 N. W. 579.
Matter of Hodges, 215 N. Y. 447, 109 N. E. 559.
Pratt v. Deun, 246 Mass. 300, 140 N. E. 557.
People v. McCormick, 327 Ill. 547, 158 N. E. 861.
 NOTE: This applies only to state inheritance taxes.

XI. Powers.

A. State inheritance taxes.

See IV - A - 1.

B. Federal Estate Tax.

I. R. C., Sec. 811 (b) ; Reg. 105, Sec. 81.24.

XII. Joint estates.

A. State inheritance taxes.

Atty. Gen. v. Clark, 222 Mass. 291, 110 N. E. 299.
In re Lyon's Estate, 233 N. Y. 208, 135 N. E. 247.
In re Weiden's Estate, 263 N. Y. 107, 188 N. E. 270.

B. Federal Estate Tax.

I. R. C., Sec. 811 (e) ; Reg. 105, Secs. 81.22, 81.23.
Tylen v. U. S., 281 U. S. 497, 50 S. Ct. 356.
Gwinn v. C. of I. R., 287 U. S. 224, 53 S. Ct. 157.
Griswold v. Helvering, 290 U. S. 56, 54 S. Ct. 5.
U. S. v. Jacobs, 306 U. S. 363, 59 S. Ct. 551.

XIII. Insurance.

A. State inheritance tax.

In re Thornton's Estate, 186 Minn. 351, 243 N. W. 389.
In re Fligman's Estate, 118 Mont. 505, 129 P. (2d) 627.
Tyler v. Treas. & Rec. Gen., 226 Mass. 306, 115 N. E. 300.
Matter of Knoedler, 140 N. Y. 377, 35 N. E. 601.
Will of Allis, 174 Wis. 527, 184 N. W. 381.
Martin v. Storrs, 277 Ky. 199, 126 S. W. (2d) 445.

B. Federal Estate Tax.

1. Prior to October 22, 1942.

Old Colony Tr. Co. v. C. of I. R., 102 F. (2d) 380.
Helvering v. DeGierse, 312 U. S. 531, 61 S. Ct. 646.
Lang v. C. of I. R., 304 U. S. 264, 58 S. Ct. 820.
Chase Nat. Bk. v. U. S., 278 U. S. 327, 49 S. Ct. 126.
C. of I. R. v. Jones, 62 F. (2d) 496.

2. After October 21, 1942.

I. R. C., Sec. 811 (g) ; Reg. 105, Secs. 81.25-81.28.

C. Federal Income Tax aspects.

I. R. C., Sec. 22 (b) (1), (2); Reg. 111, Secs. 29.22 (b) (1) - 1, 29.22 (b) (2) 1, 2, 3.

C. of I. R. v. Winslow, 113 F. (2d) 418.

Allis v. La Budde, 128 F. (2d) 838.

C. of I. R. v. Pierce, 146 F. (2d) 388.

XIV. Disposition of business interests.

MONOGRAPHS ON TAXATION

H. A. Mackoff, Esq., President
State Bar Association of North Dakota
First National Bank Building
Dickinson, N. D.

Dear Mr. Mackoff:

The Practicing Law Institute, 57 William Street, New York 5, N. Y. will be happy to make available to the members of your Association at a special unit price of \$10 the monographs which Professor Henry Rottschaefer will use as texts for his tax lectures at your forthcoming annual meeting.

These articles form part of the two series on Fundamentals of Federal Taxation and Current Problems in Federal Taxation which the Institute has published in collaboration with the American Bar Association. A complete list of the subjects in each series appears below. The articles to be included in the special unit for your tax series have been marked with asterisks. The monograph on "Form of Business Organization and the Tax Laws" is not included because it has not been published yet.

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CORPORATE DISTRIBUTIONS IN KIND AND THE SALE OF PROPERTY BY STOCKHOLDERS by George E. Cleary.

TAXING ACCUMULATION OF CORPORATE SURPLUS UNDER SECTION 102 by Richard Kilcullen.

Professor Rottschaefer probably will not have time to cover a number of important basic phases such as deductions from gross income, capital gains and losses, sales and exchanges on which gain or loss is not recognized, and practice and procedure. I believe it desirable, therefore, for members of your Association to also have the articles on these subjects in the monograph series on Fundamentals of Federal Taxation. I recommend that your members subscribe for the entire series on Fundamentals of Federal Taxation. If they do, we shall add the two monographs on "Tax Planning" and "Estate Planning", at an additional charge of only \$1.50, thus making the total cost \$15 for the series on Fundamentals and the two monographs from the Current Problems series.

As I have indicated to you in previous correspondence, to which you were good enough to refer in the November-December 1946 issue of "Bar Briefs", the Institute conducts correspondence courses on Fundamentals of Federal Taxation and Current Problems in Federal Taxation and other subjects in which its publications are used as text material. Veterans may enroll for these courses under the G. I. Bill of Rights and have the full cost of their tuition fees and text materials paid by the Government. In the case of veterans who enroll for the Institute's correspondence courses on taxation, the payment made for the tax publications, referred to above, will be treated as refundable deposits on account of the cost of the required text materials for which the Veterans Administration will pay if the enrollees satisfactorily complete the correspondence courses under the G. I. Bill of Rights.

I suggest that those who avail themselves of these special unit prices send their subscriptions to the Institute at the above address immediately so that they may receive their text materials in sufficient time to study them in advance of Professor Rottschaefer's lectures. Experience indicates that a prior familiarity with the basic principles to be discussed at the lectures greatly facilitates comprehension of the speaker's illustrative material and discussions. We will be happy to send descriptive literature about the Institute's publications and correspondence courses to your members on request.

With all good wishes for the success of your program,

Sincerely yours,

HAROLD P. SELIGSON
Director.